IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 14473 of 2004

Between:

Sri Y.P. Yellappa, S/o. Y.P. Naganna, Polakal Village, C. Balagal Mandal, Kurnool District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, C.Balagal Mandal, Kurnool District.
2 The Revenue Divisional Officer, Kurnool, Kurnool District.

3 The Joint Collector, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ of Mandamus and declare that the action of the 2nd respondent suspending the petitioner from dealership in proceedings Rc.No.B.827/204, Dt. 28.7.2004 as arbitrary illegal and contrary to principles of natural Justice.

Counsel for the Petitioner: MR.Y.VENUGOPAL REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

The petitioner is the authorised dealer in respect of Fair Price Shop of 8th Ward, Polakal village, C.Balagal Mandal, Kurnool District.

This writ petition is filed aggrieved by the order of the Revenue Divisional Officer dated 28.07.2004 under which the authorisation of the petitioner was suspended, pending enquiry into the allegation that the petitioner is not residing in Polakal village and that the F.P. shop is being run by one Y.Naganna.

The learned counsel for the petitioner contends that the allegations made against the petitioner are false and baseless. He also contends that having regard to the nature of the allegations, there is absolutely no need to suspend the authorisation of the petitioner pending enquiry.

The law is well settled that the power of suspension pending enquiry cannot be exercised in a routine way or as a matter of course. The authority concerned is bound to exercise the discretion reasonably and bona fide in public interest considering the facts and circumstances of the case. The power should not be used as an invariable rule, but wherever it is possible, an opportunity shall be given to the person concerned to explain the allegations.

In the case on hand, since the only allegation being that the petitioner himself is not running the Fair Price Shop, but his father Y.Naganna is

running, the 1st respondent could have issued a show-cause notice to the petitioner and after considering his explanation, could have passed the appropriate orders. Having regard to the nature of the allegations made, it cannot be said that the circumstances warrant a drastic step of suspension of authorisation.

Accordingly, the impugned order is set aside. It is made clear that it is open to the 1st respondent to proceed with the enquiry into the allegations against the petitioner and to pass appropriate orders in accordance with law, after affording due opportunity to the petitioner.

The Writ Petition is accordingly disposed of. No costs.

17.08.2004

VGB

To

1 The Mandal Revenue Officer, C.Balagal Mandal, Kurnool District.
2 The Revenue Divisional Officer, Kurnool, Kurnool District.

3 The Joint Collector, Kurnool District.

4 2CCs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad (OUT)

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